

Appln No. 09/775,677

Amdt date March 11, 2004

Reply to Office action of October 21, 2003

**REMARKS/ARGUMENTS**

This amendment is submitted in response to the Office action mailed on October 21, 2003. Claims 38, 39 and 74 have been amended. Claims 1-13, 24, 31 and 73 have been cancelled without prejudice. Claims 14-17, 22, 25-27, 29, 30, 32-40, and 74 are currently pending. Applicant agrees with the Examiner that claims 18-20 and 41-72 were canceled in the amendment filed on August 6, 2002. The cancellation was without prejudice.

Erwin Berger was a co-inventor of claims 1-13 which were withdrawn pursuant to an election requirement. Mr. Berger is not a co-inventor of the pending claims. Please see the accompanying amendment to delete inventor.

On page 2 of the Office action, the Examiner states that claims 22 and 40 are generic and that upon their allowance, the claims dependent thereon that were withdrawn from consideration for being directed to non-elected species would no longer be withdrawn. Support for claims 25-27 is found in FIGS. 10-11 and the accompanying text. Support for claims 32-36 is found at FIG. 3, namely hooks 10. Applicant submits that all of the elongate bodies described in the application have friction enhancing surfaces as recited in claim 34.

The Examiner also alleges that claims 24, 29 and 31 would not be allowable because they contain new matter. Claims 24 and 31 are cancelled without prejudice. Applicant submits that claim 29 is fully supported in the specification at FIGS. 12 and 13 and the accompanying text at page 16, line 22 - page 17, line 13. In particular, FIGS. 12 and 13 show an elongate body comprised of three stent sections 23, 24, 25 "fixed" in position

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at three locations in the coronary sinus. Wires 26 and 27 are "connected" to the stents. As shown in FIG. 12, wire 26 is connected to stent 24 and wire 27 is connected to stent 23. The wires are maneuverable from outside the vein system to "reduce" the distances of adjacent stents. FIG. 13 illustrates the elongate body in a "bent" position, after the distances between the stents have been reduced. As is again seen in FIG. 13, after the distances between adjacent stent sections are reduced, the wires are further secured to the stents and the ends of the wires ~~severed and removed from the elongate body.~~ In particular, wire 26 is connected to stent 24 and stent 25 and wire 27 is connected to stent 24 and stent 23. The specification does not expressly state that the wires are secured and severed, but this is apparent from FIG. 13. The specification has been amended to included this recitation and FIG. 13 has been amended to add reference numbers to the wires. Applicant respectfully submits that claim 29 is supported by the original specification and requests that the amendment to the specification and drawings be carefully reviewed and approved by the Examiner.

At the bottom of page 3 of the Office action, the Examiner states that the wires are not secured after distances have been reduced. Applicant respectfully disagrees. FIG. 12 shows the stents in a first position, prior to reducing the distances between the stents. Figure 13 shows the stents in a second position, after the elongate body has been "bent". Clearly, the ends of the wires have been severed and removed. FIG. 13 depicts the remaining wire portions in a manner that secure the

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stents in the second position, i.e., the elongate body is locked in the second position, as recited in claim 29.

As noted in the Request for Interference dated October 24, 2001, claim 29 of the present application was copied from PCT International Application No. PCT/US01/02823 (claim 9). It is noted that the '823 application gives a broad meaning to the term "lock," including "any of a variety of structures, such as a suture knot, locking clamp or ring, an interference fit, ratchet and pall structures, an adhesive bond, or a compression fit, as will be apparent to those of skill in the art." Page 18, lines 27-32. In view of this broad meaning attributed to the term "lock," applicant believes that FIGs. 12 and 13 and the accompanying specification provide adequate support for claim 29.

On pages 2-4 of the Office action, the Examiner addresses the applicant's request for an interference and states that the Examiner does not consider claim 22 to be directed to the same invention as that of U.S. Patent 6,402,781 or U.S. Application No. 09/909,163. Applicant reserves the right to pursue the interference in a continuation application.

On page 4 of the Office action, the Examiner rejects claims 38 and 39 under 35 U.S.C. 112, second paragraph, because it is allegedly unclear how they further limit the claimed invention. The Examiner also states on page 5, however, that claims 38-39 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, and to include all of the limitations of the base claim and any intervening claims. Claims 38, 39 and 74 have been amended to recite a "medical

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system" and to otherwise recite all of the limitations of claim 22. Applicant respectfully requests that the changes to claims 38, 39 and 74 be carefully reviewed and approved by the Examiner.

On pages 4-5 of the Office action, claims 22, 30, 37 and 40 are rejected under the judicially created doctrine of double patenting over claim 1 of U.S. Patent No. 6,210,432. In order to obviate the double patenting rejection, Applicant submits herewith a terminal disclaimer in compliance with 37 C.F.R. 1.321(c).

On November 20, 2003, an interview was conducted with Examiner Urmi Chattopadhyay and Examiner David J. Isabella. During the interview, Applicant discussed making claims 1-13 dependent on claim 22. Applicant, however, has decided to cancel claims 1-13 without prejudice. The §112 rejection of claims 38 and 39 was also discussed. Applicant has amended claim 38 to place it in independent form and to substitute the term "medical system" for "medical device." Claims 39 and 73 have also been amended to provide proper antecedent basis. It is believed that the amendments do not change the scope of the claims. These claims are now believed to be in condition for allowance.

During the interview, the double patenting rejection was also discussed. The undersigned referred to page 5 of the Office action dated October 21, 2003 wherein the Examiner stated that claims 22, 30, 37 and 40 of the pending application recite that the elongate body remodels the mitral valve annulus "by reducing the circumference thereof." These claims, however, do

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not recite this recitation and the Examiner agreed to change the basis for the double patenting rejection.

Interference issues were discussed during the interview and the undersigned indicated that such issues would be raised in a continuation application in order to permit the pending allowable claims to issue. It was also discussed whether FIGs. 12 and 13 and the accompanying text provided support for securing (i.e., locking) wires to the stents. Applicant indicated that the parent application, U.S. Serial No. ~~09/345,475~~ provided support for FIG. 13, but that when the '475 application issued as Patent No. 6,210,432, the wires were inadvertently omitted from FIG. 13. Applicant advised that a Certificate of Correction has been filed to correct this inadvertent error. A copy of the Request for Certificate of Correction is enclosed. Examiner Isabella indicated that the parent application may be reviewed to confirm the location of the wires. Applicant wishes to thank the examiners for the time and attention devoted to the interview.

In view of the above, applicant respectfully requests reconsideration of the application and the allowance of claims 14-17, 22, 25-27, 29, 30, 32-40, and 74. If the Examiner believes that a telephone conference with applicant's attorney

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might expedite the prosecution of the application, she is invited to call at the telephone number indicated below.

Respectfully submitted,

CHRISTIE, PARKER & HALE, LLP

By Mark Garscia  
Mark Garscia  
Reg. No. 31,953  
626/795-9900

MEG/cks

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